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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,892	06/04/2004	Yi-Hsiang Huang	ACMP0070USA	3891
27765	7590	01/17/2006	EXAMINER	
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION P.O. BOX 506 MERRIFIELD, VA 22116			TRINH, SONNY	
			ART UNIT	PAPER NUMBER
			2687	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,892

Applicant(s)

HUANG, YI-HSIANG

Examiner

Sonny TRINH

Art Unit

2687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. **Claims 1-5, 7, 11** are rejected under 35 U.S.C. 102(b) as being anticipated by Konishi (hereinafter "Konishi"; U.S. Patent Number 5,764,751.

Regarding **claim 1**, with reference to figure 2 and its description (columns 3-4), Konishi discloses a method for managing incoming calls of a mobile phone (figure 2, abstract), the mobile phone comprising a control circuit (figure 2, item 24), and a volume detector (column 2, specifically lines 4-5), the method comprising:

receiving a call signal with the mobile phone (column 2, lines 14-29);

starting a timer to measure a predetermined period of time when the call signal is received (claims 3-4, 10, 12, column 5 line 50 to column 6 line 5);

detecting environmental volume surrounding the mobile phone with the volume detector after the predetermined period of time has elapsed (column 2 lines 14-29, claims 3-4, 10, 12, column 5 line 50 to column 6 line 5);

executing a first managing process with the control circuit when the detected surrounding volume exceeds a predetermined value, or executing a second managing process with the control circuit when the detected surrounding volume does not exceed the predetermined value (column 2, see also abstract).

Regarding **claim 2**, Konishi further teaches that the first managing process comprises vibrating the mobile phone (column 2).

Regarding **claim 3**, Konishi further teaches that the mobile phone comprises a speaker (figure 2, see tone generating section 14) and the first managing process comprises playing a ringing tone (abstract).

Regarding **claim 4**, Konishi further teaches that the second managing process comprises vibrating the mobile phone (abstract).

Regarding **claim 5**, Konishi further teaches that the first managing process comprises increasing the volume of a ringing tone (claims 3-4, 10, figure 4).

Regarding **claim 7**, Konishi further teaches that the mobile phone comprises a microphone and the volume detector detecting the surrounding volume through the microphone (column 4 lines 45-54).

Regarding **claim 11**, Konishi further teaches the mobile phone for implementing the method of claim 1 (figure 2, abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Konishi in view of Scott (hereinafter "Scott"; U.S. Patent Number 6,895,237).

Regarding **claim 6**, Konishi discloses the invention but does not disclose the step of sending a voice message.

In an analogous art, Scott teaches the method and apparatus for responding to an incoming call (abstract). Scott further teaches that a voice message can be sent out the caller if he/she does not want to answer the call (column 1 line 65 to column 2 line 29).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to incorporate the voice message, as taught by Scott, to the system of Konishi in order to allow the user to send a voice message to the caller if he/she is preoccupied (such as when the user is in a meeting), see column 3 lines 12-67.

CONCLUSION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny TRINH whose telephone number is 571-272-7927. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester KINCAID can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2687

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SONNY TRINH
PRIMARY EXAMINER

1/10/06